

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C).No. 28481 of 2015 (I)

PETITIONER(S):

**SOUTHERN DISTRIBUTORS, JEWS STREET
ERNAKULAM (REPRESENTED BY THE
MANAGING PARTNER, SRI.ANAS C.B AGED 32 YEARS)**

**BY ADVS.SRI.K.N.SREEKUMARAN
SRI.P.D.UNNIKKANNAN NAIR
SMT.V.PSEENA DEVI**

RESPONDENT(S):

- 1. COMMERCIAL TAX INSPECTOR
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD - 676 624**
- 2. INSPECTING ASSISTANT COMMISSIONER
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD - 676 624**

R BY GOVERNMENT PLEADER, SRI. LIJU V.STEPHEN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 TRUE COPY OF THE INVOICE BEARING No.R-0051 DATED 25.07.2015
ISSUED BY M/S. UNIVERSAL FAUCETS, NEW DELHI.
- EXT.P2 TRUE COPY OF THE INVOICE BEARING No.1776 DATED 25.07.2015
ISSUED BY M/S. HARISH ENTERPRISES, NEWDELHI
- EXT.P3 TRUE COPY OF THE INVOICE BEARING No.4707 DATED 24.07.2015
ISSUED BY M/S. ALFA ENTERPRISES, NEW DELHI
- EXT.P4 TRUE COPY OF E-CONSIGNMENT TRANSACTION SLIP IN FORM 8F
WITH TOKEN NUMBER 320702/PA01/76642/2015
- EXT.P5 TRUE COPY OF E-CONSIGNMENT TRANSACTION SLIP IN FORM 8F
WITH TOKEN NUMBER 320702/PA01/76640/2015
- EXT.P6 TRUE COPY OF E-CONSIGNMENT TRANSACTION SLIPS IN FORM 8F
WITH TOKEN NUMBER 320702/PA01/7631/2015.
- EXT.P7 TRUE COPY OF THE NOTICE BEARING No.OR 2326/9/15-16 DATED
02.08.2015 ISSUED BY THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:-

NIL

// True copy //

PA to Judge

das

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C). No. 28481 of 2015

Dated this the 18th day of September, 2015

JUDGMENT

The petitioner, who is a registered dealer under the Kerala Value Added Tax Act, is aggrieved by Ext.P7 notice issued to him detaining a consignment of Shower & Fittings and GI Pipe Fittings that was being transported at the instance of the petitioner. In the writ petition, the petitioner is aggrieved by the insistence of the respondent that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. I have heard the learned counsel appearing for the petitioner and also the learned Government Pleader appearing for the respondent.

3. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with the following directions:

- (i) On a perusal of Ext.P7 notice, it is seen that the objection of the respondent is essentially with regard to a misclassification of the product when compared with the documents that accompanied the transportation of the goods. According to the

respondents, the classification of the goods ought to have been under a different heading under the KVAT Act. It is not in dispute that the transportation was accompanied by the documents contemplated under the KVAT Act. The petitioner is also a registered dealer within the State. Taking note of the said facts, and finding that the transportation of the goods was otherwise in order, I direct the 1st respondent to release the goods and the vehicle covered by the detention notice, to the petitioner, on his executing a simple bond without sureties for the security deposit amount demanded in the notice, before the 1st respondent.

(ii) The 1st respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iii) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the 1st respondent.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE